

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL REYES-VILLANUEVA,

Plaintiff,

v.

TYSON POGUE, *et al.*,

Defendants.

Case No. 1:24-cv-00493-JLT-EPG (PC)

ORDER DIRECTING CLERK OF COURT  
TO REVISE NAMES OF CERTAIN  
DEFENDANTS AND TITLE OF  
DEFENDANT ON THE DOCKET

FINDINGS AND RECOMMENDATIONS  
THAT THIS CASE PROCEED ONLY ON  
PLAINTIFF'S CLAIMS CONCERNING (A)  
HIS RIGHT TO ADEQUATE MEDICAL  
CARE UNDER THE FOURTEENTH  
AMENDMENT AGAINST DR.  
GUSTAVENSON, NURSE DEBBIE, RN  
MICHELLE, RN EVA, RN KHLOE, RN  
MARIA, RN VICTORIA, AND RN  
KRISTEN; AND (B) HIS RIGHT TO  
SAFETY UNDER THE FOURTEENTH  
AMENDMENT AGAINST SHERIFF  
POGUE

(ECF Nos. 1, 14, 15)

OBJECTIONS, IF ANY, DUE WITHIN 30  
DAYS

Plaintiff Michael Reyes-Villanueva proceeds *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. (ECF Nos. 1, 4). The complaint alleges that Defendants ignored Plaintiff's medical needs after he fell from his top bunk bed. Further, it alleges that Defendant Tyson Pogue disregarded Plaintiff's safety because Pogue failed to provide a means—*e.g.*, a ladder—for Plaintiff to climb to his top bunk bed.

1 On November 15, 2024, the Court screened the complaint, concluding that Plaintiff  
2 sufficiently stated claims against (1) Defendants Dr. Gustavian, Dr. Debbie, Registered Nurse  
3 (RN) Mitchel, RN Eva, RN Khloe, RN Maria, RN Victoria, and RN Kristn for violating his  
4 right to adequate medical care under the Fourteenth Amendment; and (2) Defendant Pogue for  
5 violating his right to safety under the Fourteenth Amendment.<sup>1</sup> The Court explained why the  
6 complaint otherwise failed to state any claims and gave Plaintiff thirty days to either file (1) a  
7 notice to go forward on his cognizable claims, (2) an amended complaint; or (3) a notice to  
8 stand on his complaint and have it reviewed by a district judge.

9 On November 26, 2024, Plaintiff filed a notice stating that he wants to proceed only on  
10 the claims that the Court found cognizable. (ECF No. 15). Additionally, Plaintiff corrects the  
11 spellings of some of the Defendants and the title of another. Specifically, he states that Dr.  
12 Gustavian, as spelled in the complaint, is actually “Dr. Gustavenson.” Further, RN Mitchel is  
13 “RN Michelle,” RN Kristn is “RN Kristen,” and Dr. Debbie is “Nurse Debbie.” Thus, the Court  
14 will implement these corrections going forward, direct the Clerk of Court to reflect them on the  
15 docket, and treats the complaint as amended to the extent that these substitutions are made.

16 Accordingly, IT IS ORDERED that the Clerk of the Court is directed to revise the  
17 docket as follows: (1) Dr. Gustavian shall be corrected to “Dr. Gustavenson”; (2) RN Mitchel  
18 shall be corrected to “RN Michelle”; (3) RN Kristn shall be corrected to “RN Kristen,” and (4)  
19 Dr. Debbie shall be corrected to “Nurse Debbie.” Further, the complaint is considered amended  
20 to reflect these changes. (ECF No. 1).

21 Additionally, for the reasons set forth in the Court’s screening order that was entered on  
22 November 15, 2024 (ECF No. 14), and because Plaintiff has notified the Court that he wants to  
23 proceed on the claims that the Court found should proceed past screening (ECF No. 15), IT IS  
24 RECOMMENDED that all claims and Defendants be dismissed, except for Plaintiff’s claims  
25 against (1) Defendants Dr. Gustavenson, Nurse Debbie, RN Michelle, RN Eva, RN Khloe, RN  
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27 <sup>1</sup> The Court uses the names and titles of the Defendants as listed in the complaint and screening order.  
28 However, as noted below, Plaintiff has since corrected some of the Defendants’ names and one of their  
titles. (ECF No. 15).

1 Maria, RN Victoria, and RN Kristen for violating his right to adequate medical care under the  
2 Fourteenth Amendment; and (2) Defendant Pogue for violating his right to safety under the  
3 Fourteenth Amendment.

4 These findings and recommendations will be submitted to the United States District  
5 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
6 thirty (30) days after being served with these findings and recommendations, Plaintiff may file  
7 written objections with the Court. The document should be captioned “Objections to Magistrate  
8 Judge’s Findings and Recommendations.” Any objections shall be limited to no more than 15  
9 pages, including exhibits. Plaintiff is advised that failure to file objections within the specified  
10 time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39  
11 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

12  
13 IT IS SO ORDERED.

14 Dated: **December 4, 2024**

15 /s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE